



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 22, 1998

Ms. Lydia L. Perry
Law Offices of Robert E. Luna, P.C.
4411 North Central Expressway
Dallas, Texas 75205

OR98-3234

Dear Ms. Perry:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 121112.

The Coppell Independent School District (the "district"), which you represent, received two requests for information relating to the rental of district facilities. You contend that the requested information is excepted from disclosure under section 552.103 of the Government Code. We have considered the exception you claim and have reviewed the submitted representative sample of information at issue.¹

Section 552.103(a) excepts from disclosure information relating to litigation to which governmental body is or may be a party. The governmental body has the burden of providing relevant facts and documents to show that section 552.103(a) is applicable in a particular situation. In order to meet this burden, the governmental body must show that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.--Austin 1997, no pet.); *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 at 4 (1990).

You have submitted a petition styled *Coppell Indep. Sch. Dist. v. Foster*, No. DV9808003 (M-298th Dist. Ct., Dallas County, Tex., filed Oct. 15, 1998). The petition

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

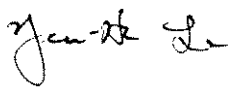
alleges that Mr. Richard Foster misappropriated funds from the rental of the district's facilities. We conclude that you have demonstrated that litigation is pending and that the requested information relates to the pending litigation. Therefore, you may withhold most of the requested information from public disclosure under section 552.103(a).

Basic information in an offense report generally may not be withheld under section 552.103. Open Records Decision No. 362 (1983). Thus, you must release front page offense report information, even if this information is not actually located on the front page of the offense report, pursuant to *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See Open Records Decision No. 127 (1976). Additionally, we note that, generally, once information has been obtained by all parties to the litigation through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). We also note that the applicability of section 552.103(a) ends once the litigation has concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

Finally, we note that one of the requestors also asks for a copy of "all document(s) that CISD relies or will rely on to claim an exception from disclosure for the document(s)." We assume that the documents in question were created after the submission of the request to the district. The Open Records Act applies only to information in existence at the time of the request. See, e.g., Open Records Decision No. 452 (1986). Therefore, you need not comply with this portion of the request.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref: ID# 121112

Enclosures: Submitted documents

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